

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MAURICE EMILE, )  
Plaintiff, ) Civil Action No. 04 - 974  
v. ) Judge Gary L. Lancaster /  
S.C.I. PITTSBURGH, and PA DEPT OF ) Magistrate Judge Lisa Pupo Lenihan  
CORRECTIONS, )  
Defendants. ) Doc. Nos. 44, 45, and 46  
 )  
 )

**ORDER**

The above captioned case involves an allegation of failure to protect in violation of the Eighth Amendment to the United States Constitution. On December 23, 2005 Defendants filed a Motion to Dismiss Plaintiff's complaint, alleging, *inter alia*, that he has failed to exhaust his administrative remedies as required by the Prison Litigation Reform Act. The court has granted this motion and the defendants named in the caption of the complaint have been dismissed. The court additionally denied a motion (Doc. No. 38), which the court construed as a motion for preliminary injunction, requesting that the court order defendant Beard to lessen alleged mental abuse.

Because Plaintiff named additional defendants in the body of the complaint, he was granted leave to amend to add those additional defendants to the caption. Plaintiff has requested and been granted an extension until November 19, 2006 to file this amended complaint.

Pending before the Court is a second Motion asking the Court to grant Plaintiff's request to ask Defendant Beard to lessen certain mental abuse (Doc. No. 44), and two

Motions to Compel the Attorney General's Office to provide medical records (Doc. Nos. 45 and 46). Based upon the reasoning given in the Report and Recommendation dated August 18, 2006, adopted by the District Court on September 24, 2006, these motions are **DENIED**.

**IT IS FURTHER ORDERED** that in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1)(A), and Local Rule 72.1.3, the parties are allowed ten (10) days from the date of service to file an appeal from this order to the District Court. Failure to timely file an appeal may constitute a waiver of any appellate rights.

Dated: Sept. 29, 2006

/s/Lisa Pupo Lenihan  
LISA PUPO LENIHAN  
U.S. Magistrate Judge

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